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SUBJECT: GEORGIA: WAR CRIMES ISSUES AMBASSADOR-AT-LARGE
WILLIAMSON FOCUSES ON ETHNIC CLEANSING

REF: TBILISI 1522

Classified By: AMBASSADOR JOHN F. TEFFT FOR REASONS 1.4 (B) AND (D).

¶1. (C) Summary and Comment: Ambassador-at-Large Clint Williamson visited Georgia September 10-11 to highlight USG concerns over war crimes and ethnic cleansing allegations from the August conflict and to stress the need to hold perpetrators accountable. Williamson frankly told GOG officials that perceptions of U.S. bias, combined with limited access to the Russian-controlled territories, would hamper USG efforts to help conduct an investigation. He recommended that to ensure impartiality, the OSCE or EU should do so. He commended GOG officials on their work thus far and discussed with them the option of referring the case to the International Criminal Court, in addition to their ongoing legal proceedings in the International Court of Justice and the European Court of Human Rights. GOG officials agreed that the USG might best serve them by sharing techniques to catalogue and sort information. Collection of information has been hampered by the fact that the GOG does not have access to many of the locations of alleged crimes, and concrete numbers of the missing and dead are not available. Williamson said he intended to discuss these issues with the French in their EU Presidency capacity and with the Finns in their OSCE chair capacity. Georgian Ministry of Justice officials said that their hearing before the International Court of Justice had gone very well and expected a response within two weeks. Post recommends that the Department consider sending Georgian officials to Washington to learn how to catalogue investigation information more efficiently. End Summary and Comment.

Ministry of Justice

¶2. (C) Ambassador Williamson met with a variety of senior level officials in Tbilisi, as well as regional officials in the city of Gori, that was occupied by Russian troops for several weeks in August. During a September 10 meeting, Deputy Minister of Justice Tina Burjaliani told Ambassador Williamson she had just returned from The Hague and the International Court of Justice, where Georgia's three-day hearing went better than anticipated. She cautioned that the basis of the Georgian case was very narrow (racial discrimination, ethnic cleansing). The Russians attempted to brush these allegations aside, saying that Russian forces were justified as they were part of the wartime events and not a systematically focused discrimination campaign against Georgians. Burjaliani portrayed the Russians' arguments as weak and was hopeful that the Court would grant a provisional measure in favor of the Georgians within two weeks.

¶3. (C) Burjaliani thought that the International Criminal Court (ICC) might want to take on the Georgians' case. She expressed concern, however, that the ICC might eventually conclude that the scale of the crimes did not warrant prosecution, thereby handing the Russians a propaganda victory. Her recommendation to her superiors was to not

pursue it at this time. She was wary that the Russians would cry foul if they did file with the ICC, pointing out that there was overlapping jurisdiction between the ICJ and the ICC. Williamson countered that this was not a valid argument, because the ICJ exercised civil jurisdiction in actions between governments, while the ICC jurisdiction was criminal and pertained to individuals. Burjaliani, who seemed unsure of how the GOG would proceed, noted that the ICC case's impact might be minimal, because even if the ICC indicted South Ossetian de facto authorities, it was unlikely they would ever be arrested. Williamson indicated that even if indicted individuals were not arrested, there was some value in having perpetrators publicly charged, since this placed them and their "state" into a rogue category. He added that there were no 100 percent guarantees as to how an investigation might come out, so ultimately the Georgians would have to weigh all of these considerations and come to their own conclusions as to the value of an ICC referral. He stressed that it was unlikely that the ICC would initiate its own investigation into the Russia-Georgia conflict, however, so if Georgia was interested in having the ICC investigate, the Government would have to make a formal request to the Office of the Prosecutor.

14. (C) Williamson suggested that the Georgians also consider offering compensation payments to Ossetian families who had experienced the loss of family members due to Georgian military actions, drawing the parallel between this and the U.S. military condolence payments in Iraq and Afghanistan. Williamson said that such actions would not acknowledge criminal responsibility but would be a show of goodwill by the Georgians indicating a willingness to

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acknowledge that persons had died accidentally as a result of ongoing military operations. If the Georgians were prepared to make such an offer, it would need to be predicated on an independent investigation into the number of deaths and which side was responsible in each case. It would be awkward for the Russians, or the South Ossetians, to block such an inquiry if their citizens were potentially being compensated.

If an investigation were allowed to go forward, it would almost certainly prove that the number of deaths attributed to Georgian military actions was greatly inflated. Burjaliani expressed interest in exploring this initiative and said that the Georgians would be willing to learn more about how this had been done in other settings. She did note that it would be a delicate matter domestically to provide payments to Ossetians when so many IDPs were in dire circumstances and not getting any such remuneration. She said that this could likely be overcome, though, if it were dealt with appropriately.

15. (C) Finally, Burjaliani said that she would very much appreciate written information on how best to catalogue the information that they are now collecting. The Prosecutor's Office had been very helpful but needed better instruction on this procedure. Williamson agreed to share this information via the Department of Justice's legal representative at post.

(Comment: We might consider sending Georgian prosecutors to Washington to meet with Ambassador Williamson and his staff to develop a tool to catalogue the information being collected. Another possibility would be to support sending Georgian pathologists to meet with expert war crimes pathologists to help them learn how to conduct war crimes-related autopsies. End Comment.)

Deputy Foreign Minister Bokeria

16. (C) DFM Bokeria discussed with Ambassador Williamson the tradeoffs associated with Georgia's filing a case with the ICC. Bokeria said the GOG was considering such a case, but was concerned that the effort involved would not yield any concrete results. Williamson agreed that it was unlikely that the ICC would independently look into the cases of war crimes if Georgia did not request it, but suggested that even

if the case only resulted in a limited number of perpetrators being indicted, it could have some value. Williamson was skeptical that Russian officials would be indicted, but indicated that ICC would likely be less hesitant about pursuing cases against South Ossetian de facto authorities. Williamson underlined that being branded a "war criminal" nevertheless had long-ranging ramifications that would affect the de facto authorities well into the future. Williamson again stressed that the GOG would have to make its own decision about pursuing an ICC investigation, but that this appeared to be the only viable option for prosecutions if that was the end result they were seeking.

17. (C) When asked by Bokeria for an assessment of what could be done, Ambassador Williamson stated that the allegations of ethnic cleansing appeared to be the most viable for further investigation. Although there seem to have been some isolated execution-style killings and other individually targeted crimes, these appear to be relatively small in number, and at this point are difficult to substantiate because of lack of access to crime scenes and victims. The witness testimony as to forced displacements can be corroborated through other independent means, such as imagery, and reinforced by international monitors' observations, should access issues be overcome. Bokeria added that it would be easier for the Georgians to show a systematic effort by paramilitary organizations under the South Ossetian officials' control, as opposed to Russian forces, to force ethnic Georgians out of South Ossetia. Using current satellite imagery, it appeared easy to show that Georgian villages were systematically burned and that a large number are now vacant.

18. (C) Bokeria was unhappy with Council of Europe Commissioner for Human Rights Thomas Hammarberg's report on the situation in South Ossetia, suggesting that the report was too soft on the Russians and cautiously worded to avoid controversy. Although Bokeria acknowledged the constraints on any attempted U.S. investigation, he said that any effort by OSCE to investigate would be hampered by Russian influence. Bokeria complimented Human Rights Watch (HRW) for its balanced reporting thus far on the situation, but noted that human rights NGOs sometimes fail to analyze situations from the perspective of military necessity. Williamson agreed that it was important to have this perspective, but suggested that using U.S. military experts would not be the best option. He mentioned that the ICTY had used experts from non-NATO countries, such as Ireland, and that this might

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be a possibility worth exploring.

Presidential Advisor Zurab Adeishvili

19. (C) Adeishvili said that in contrast to Georgians in South Ossetia, the 2,000 Georgians living in Kodori had not experienced the same degree of displacement during the conflict. After the early 1990's when many ethnic Georgians fled Abkhazia, very few Georgians remained except for the Georgians in Gali. Conversely, in South Ossetia many Georgians had intermarried with South Ossetians and 60,000 of them still remained.

110. (C) Adeishvili said that Abkhazia is much more valuable to Russia than South Ossetia due to its strategic coastline and natural resources. He felt that South Ossetia would become a burden for the Russians, as they would have to subsidize the entire region. Abkhazia, however, is valuable to the Russians and the Georgians. First, he opined, if the Ukrainians forced the Russians out of Sebastopol, then the logical place for their warm water port would be Sukhumi. Second, the Enguri power station which straddles Georgia and Abkhazia provides a significant source of power for which the Abkhaz do not pay. Currently, the Abkhaz population (150,000) uses 1 billion kilowatt hours -- three times that of Adjara, the neighboring Georgian region, where 300,000

people use 400,000 kilowatts of power. Third, this power plant generates 40% of Georgia's power and therefore represents a serious vulnerability. The informal arrangement for the last 15 years has been that Georgian technical experts were permitted in Abkhazia to keep the plant going. If Russia were to shut down the plant, Georgia's power supply would be greatly reduced.

Prosecutor's Office

¶11. (C) Acting Prosecutor General Giorgi Latsabidze told Williamson that the Prosecutor General's Office had no experience in prosecuting war crimes, but has done its best to investigate allegations based on current Georgian laws. Latsabidze envisioned that the crimes committed could be categorized as individual crimes (rape, abductions, summary executions) or ethnic cleansing. Of the two, the latter would be easier to prove in a court of law. Although heinous individual crimes did occur, they were not of a large enough number to cause an international outcry. For the moment, Latsabidze said numbers were sketchy, but estimated there were fewer than 100 summary executions, and around 200 missing persons. Latsabidze's biggest challenge was not having access to the locations where the alleged crimes took place. In response to the Prosecutor General's formal request for U.S. investigative assistance, Ambassador Williamson stated that we would face the same problems with access and that we would not be seen as an unbiased actor, thus undermining the results of any investigation in which the U.S. actively participated. Williamson indicated that it might be possible to explore other options, including support from other governments (e.g., the UK or the Netherlands), that have specialists experienced in war crimes investigations.

Public Defender

¶12. (C) Ambassador Williamson met Sozar Subari, Ombudsman, and representatives of The Georgian Young Lawyers Association (GYLA) and Human Rights Watch (HRW) in the offices of the Public Defender's Office on September 11. Officials from all three groups worried that the Russians and South Ossetians were engaging in a policy of ethnic cleansing. While these groups had reports of other abuses, they were limited in scope, with GYLA saying it knew of not more than ten executions and the Ombudsman saying he believed there have been 49 civilian deaths. Subari, whose office began to document facts gleaned from IDPs as they arrived at shelters, noted that in Akhalkalaki, in the far eastern part of South Ossetia which had never been a part of the conflict zone, South Ossetian officials were forcing residents to take Russian citizenship or leave. Subari added that de facto South Ossetian president Kokoity said he intended to make Tskhinvali the new capital of South Ossetia. Subari told Ambassador Williamson that the 54 villages in the district of Tskhinvali had an 80% Georgian population, with only two villages having been traditionally Ossetian.

¶13. (C) HRW indicated that its Georgian representatives had been in South Ossetia both officially and unofficially since the conflict began and that its Moscow-based representatives, along with the Russian human rights NGO Memorial, had entry into South Ossetia as well. HRW expressed concern about the border region between South Ossetia and Gori, which remains

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insecure. A withdrawal of Russian forces might create a security vacuum that would worsen the already fragile situation. During a September 12 press conference in Moscow, HRW Moscow and Memorial representatives accused Russia of letting South Ossetian militias raze Georgian homes in enclaves and villages both in and adjacent to Georgia proper which were loyal to Tbilisi, and even mixed Ossetian/Georgian villages. HRW said that the strongest allegation against the Georgians was the excessive use of force in the form of massive shelling. HRW stressed the need for a robust

security mission, saying that its organization could only do so much and that the international community needed to be involved to get a full accounting. Williamson noted that he would push for this during his subsequent visits to Paris and Helsinki.

National Security Council

¶14. (C) Ambassador Williamson met with Georgian National Security Council (NSC) officials to stress the importance of collecting evidence and establishing facts. The NSC admitted that most of the analysts working on the conflict had just been hired, yet they displayed a coherent understanding of the facts on the ground. The NSC reported that current statistics showed 14 missing Georgian soldiers and 326 Georgians killed (154 military, 155 civilian and 17 police). The primary cause of death was shelling, bombing and landmines. The NSC had few reports of other crimes, saying that because of stigmas, there was only one report of rape and that the numbers of abductions depend on whether one counts abductions that were for the purpose of negotiation and exchange of prisoners. Williamson recounted his experiences in the former Yugoslavia, explaining that Serb forces would often surround an area and allow paramilitary forces to destroy villages. The NSC responded that this same tactic was being used on Georgian villages in South Ossetia; there was a Russian policy to allow time for looting before taking villages. Bolstering the ethnic cleansing claim, NSC officials reported that the Russians had threatened Georgians in Akhalkgori with forced departure if they did not accept Russian passports. The NSC told Williamson that it had registered 127,000 internally displaced persons (IDPs), but 41,000 had already returned. Their estimates show that at a minimum, 20,000 IDPs will most likely never be able to return to their homes. Williamson complimented NSC officials on their data collection and analysis, saying that their ability to collect data under the circumstances and with no advanced planning was impressive. He added that evidence collection must be a priority and that hopefully monitoring missions would include specialists who could help document crimes.

Governor of Gori

¶15. (C) Ambassador Williamson visited Gori and met with Governor Vladimir Vardzelashvili. Still shaken by recent events, Vardzelashvili described violence by Russian forces and the situation on the ground. When asked about looters, Vardzelashvili claimed looters were Russian, because locals would have identified South Ossetians. Williamson reiterated U.S. support for investigating abuses and toured the city, visiting affected areas.

¶16. (U) This cable was cleared by Ambassador Williamson.
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